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**MAY 25 2007**

**OFFICE OF PETITIONS**

In re Application of	:
Chisnell	:
Application No. 09/393,482	: Decision on Petition for
Filing Date: September 10, 1999	: Patent Term Extension
For: REINFORCEMENT FOR A HOSE	:
COUPLING	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition Under 37 CFR 1.181," received on March 26, 2007. The petition is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181 and a petition under 37 CFR 1.705 as Petitioner has argued patent term adjustment provisions. See 35 U.S.C. § 154(b)<sup>1</sup> and 37 CFR § 1.701.

The petition under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that the Notice of Allowance mailed on January 22, 2007, for the above-identified application did not contain an indication of patent term extension under 35 U.S.C. § 154(b).

Petitioner contends that the instant application is entitled to 516 days of patent term extension as compensation for the delay due to the file being from October 21, 2004 to March 21, 2006. Petitioner contends that application is entitled to another 268 days of patent term extension due to the delay in receiving a response to the rehearing. Petitioner asserts that the application should be eligible for 784 days of patent term extension under the prior provisions of 35 U.S.C. 154(b).

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<sup>1</sup> 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000.

35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

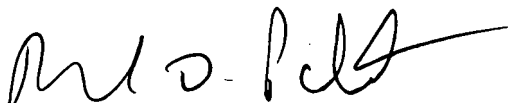
The above-identified application was filed on September 10, 1999. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

With respect to Petitioner's argument that patent term extension should be awarded to the above-identified application because the file was lost by the Office and that the Office should embrace the policy goals embraced by the Office and reflected in the patent term extension and adjustment rules. 35 U.S.C. 154(b) and 37 CFR 1.701 require a successful appellate review, interference or a secrecy order delays as set forth in the statute to be eligible for patent term extension. Delays due to a lost file and not are not listed as one of the enumerated statutory grounds for patent term extension in the statute.

The delay in the allowance and issuance is regrettable, but the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b). It is noted that Congress did not make the patent term adjustment provisions in current 35 U.S.C. 154 retroactively available to the instant application. Since Congress failed to make the provisions applicable in the instant application, the Office cannot either.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The required \$200 fee for the petition under 37 CFR 1.705(b) has been paid. Any request for reconsideration of this decision must be submitted as a petition under either 37 CFR 1.182 or 37 CFR 1.183 with the required fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



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